IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1453 of 2005

Between:

D. Lingaiah, S/o D.B. Naik,
Suryapet, Nalgonda District.

..... PETITIONER

AND

The Deputy Chief Traffic Manager, APSRTC,

Nalgonda,Nalgonda District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or directions, more in the nature of Writ of mandamus, declaring the proceedings dated
5-4-1999 passed by the respondent herein as illegal and arbitrary and contrary to APSRTC., CC & A Regulations and set aside the same with all consequential benefits and pass such other order or orders

Counsel for the Petitioner :Mr.P.GOVINDA RAJULU

Counsel for the Respondent : Mr.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the stage of admission made the following :

ORDER:

The petitioner is working as a Conductor in the respondent-corporation. He was

issued a charge memo on 24-11-1997 for having committed certain cash and ticket irregularities and after receiving the explanation of the petitioner, the final orders were passed on 25-03-1998 imposing the penalty of deferment of annual increment for a period of two years with cumulative effect, which is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Challenging the proceedings dated 25-03-1998, the petitioner carried the matter in appeal before the respondent, and the same was modified as deferment of annual increment for a period of one year with cumulative effect. Aggrieved by the same, the present writ petition has been filed.

2. The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without any enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 5 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh Gill**(1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as deferment of increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment for one year without cumulative effect.

4. The writ Petition is accordingly disposed of with the above observations. In the circumstances, there shall be no order as to costs.

2nd February, 2005.

RNS

To

1. The Deputy Chief Traffic Manager, APSRTC,

Nalgonda,Nalgonda District.

2. Two CD copies.